

## **Lobbying Murkiness Undermines Our Trust in Congress**

By Lee Hamilton

Every so often, a scandal comes along to remind us of the behind-the-scenes role lobbyists play in Washington. At the moment, it's the allegations swirling around a well-connected power broker and his representation of Indian tribes seeking casinos. Such stories make for good news fodder, but I wish lobbying came in for more than sporadic scrutiny. The disturbing fact about Congress is how little we actually know about the influence wielded by lobbyists— and the people who pay them— on the everyday workings of Congress and the government.

Let me say up front that I am not criticizing lobbying. When done well, it's a necessary and helpful part of the governing process. Most lobbyists are honest men and women who know that the single worst thing they can do is to misrepresent their position or give a member of Congress inaccurate information. The old image of lobbyists as cigar-smoking fat-cats waving wads of cash in front of gullible and greedy policy-makers is just that— old and very out of date. Lobbyists today are sophisticated men and women who have figured out how to make the system work for themselves and their clients; indeed, the odds are overwhelming that if you hold a strong view about some issue of public policy, somewhere in Washington there's a lobbyist who's promoting it. It is part of how we make decisions in our government, and there need be nothing sinister about it.

Which is precisely why we need stronger laws governing the disclosure of who is lobbying for what. The 14,000 registered lobbyists who are paid to shape federal decision-making are a fact of life in Washington— as any member of Congress who meets them in his or her office, in the hallways, even in the rest room can tell you. When an important vote is pending, you cannot walk from your office to the floor of the House or Senate without bumping into hordes of them, lined up to signal with a thumb up or down how they're hoping you vote. It can be annoying, sometimes, but there's nothing harmful about that.

What is harmful is that most Americans have little notion of the extent to which winners and losers in public policy are determined by a lobbying game of which they are entirely unaware. There may be no direct connection between a vote in the House or Senate and the money spent on wining and dining members of Congress, treating them to rounds of golf, flying them to warm or exotic locales, and, of course, underwriting their campaigns, but the well-heeled do not spend that money idly. In a just-released report, the Center for Public Integrity found that since 1998, lobbyists have spent \$13 billion to influence the federal government— \$2.4 billion alone in 2003, the last year for which data are available.

What does that buy? It buys them access and a sympathetic ear, and it can pay dividends many times over when their policy preferences are made into law. Lobbyists will often brag that the money spent on lobbying by their clients hugely rewards those clients, from bail-outs for bad market decisions to tax breaks to immunity from certain laws. At the same time, the vast majority of ordinary Americans do not participate in this game to nearly the same extent, and as a result, their interests can be slighted.

There may be no way, consistent with First Amendment protections of free speech, to level the playing field for those without resources, but there is an antidote: public information and opinion. The truth is, there are a lot of private interests who would rather not make the public aware that their money lies behind this or that cause on Capitol Hill. These are the people, companies and groups that form organizations or trade associations with innocuous names like “the Association for Freedom,” which then go about their business of promoting special interest legislation with no one the wiser. Our challenge as a society is to create and pass lobby disclosure laws with teeth, so that no matter how someone spends money to influence legislation, the rest of us will know it.

At the moment, the laws are far too docile in this regard. While the 1995 Lobbying Disclosure Act was supposed to make the activity more transparent, the Center for Public Integrity reports that “the federal disclosure system is in disarray.” Roughly one in five of the companies registered to lobby failed to file required forms, and overall, 14,000 documents that should have been filed are missing, while another fifth of the required lobbying forms were filed late. The Center found that “countless forms are filed with portions that are blank or improperly filled out. An unknown number of lobbyists neglect or refuse to file any disclosure forms whatsoever.” In essence, we have a lobby disclosure system in name only.

This is not just a matter of fairness. It goes to the heart of congressional legitimacy. Supreme Court Justice David Souter once said, “I think most people assume— I do, certainly— that someone making an extraordinarily large contribution is going to get some kind of an extraordinary return for it. I think that is a pervasive assumption.” It is a harmful one, as well, undermining the faith of ordinary Americans in our political system. We might not be able to limit these contributions, but we should certainly know who made them, and hold our elected representatives to account for their behavior as a result.